



*Reasonable Modification of Policies
and Practices
for Individuals with Disabilities*

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Background

The United States Department of Transportation (USDOT) recently revised its rules under the American's with Disabilities Act (ADA), specifically to direct transportation entities to make reasonable modifications or accommodations to policies, practices and procedures in order to ensure access to individuals with disabilities. This rule is effective July 13, 2015. The following outlines RiverCities Transit's (RCT) complaint procedures, identifies the employee responsible for implementation of this policy and provides examples of reasonable modification requests.

Modification Requests

Per the guidelines issued by the USDOT in 49CFR Parts 27 and 37, RiverCities Transit will consider requests for reasonable modifications to both RiverCities Transit's fixed route and complimentary ADA or paratransit services (RiverCities LIFT) as follows:

- 1) The individual requesting the modification shall describe what they need in order to use the service.
- 2) Individuals requesting modifications are not required to use the term 'reasonable modification' when making a request.
- 3) Whenever feasible, requests for modifications shall be made and determined in advance, before RiverCities Transit or RiverCities LIFT is expected to provide the modified service. For example, during the LIFT eligibility process, through our customer service inquiries, or through RCT's complaint process.
- 4) Where a request for modification cannot practicably be made and determined in advance (e.g., because of a condition or barrier at the destination of a LIFT or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel will make a determination of whether the modification should

be provided at the time of the request. Operators will first consult with RiverCities Transit or LIFT Dispatch before granting or denying a request.

- 5) Requests for modifications of policies and practices may be denied only on one or more of the following grounds:
- a. Granting the request would fundamentally alter the nature of RiverCities Transit or LIFT's service, programs, or activities;
 - b. Granting the request would create a direct threat to the health or safety of others;
 - c. Without the requested modification, the individual with a disability is able to fully use the entity's services, programs or activities for their intended purpose.

In any case in which RCT denies a request for a reasonable modification, RCT will take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by RCT.

How to Make a Reasonable Modification Request

RiverCities Transit's Mobility Supervisor, who is also the ADA Coordinator, is the designated responsible employee to review and determine reasonable modification requests. To make a request, you may call RCT's customer service line, e-mail, or write to RiverCities Transit. All responses to requests made in advance will be submitted in writing by US Mail or via e-mail.

RiverCities Transit
ATTN: Mobility Supervisor
PO Box 128
Longview, WA 98632
360-442-5663; (TTY Relay: 711)
customerservice@rctransit.org

Examples

In determining whether to grant a requested modification, RCT Staff and RiverCities LIFT will use the provisions of the USDOT 49 CFR Appendix E to Part 37.169 as a guide. Below is a sample of those examples:

Snow and Ice

Except in extreme conditions that rise to the level of a direct threat to the driver or others, a passenger's request for a LIFT driver to walk over a pathway that has not been fully cleared of snow and ice should be granted so that the driver can help the passenger with a disability navigate the pathway. For example, ambulatory blind passengers often have difficulty in icy conditions, and allowing the passenger to take the driver's arm will increase both the speed and safety of the passenger's walk from the door to the vehicle. Likewise, if snow or icy conditions at a bus stop make it difficult or impossible for a fixed route passenger with a disability to get to a lift, or for the lift to deploy, the driver should move the bus to a cleared area for boarding, if such is available within reasonable proximity to the stop (see Example 4 below).

Pick Up and Drop Off Locations with Multiple Entrances

A LIFT rider's request to be picked up at home, but not at the front door of his or her home, should be granted, as long as the requested pick-up location does not pose a direct threat. Similarly, in the case of frequently visited public places with multiple entrances (e.g., shopping malls, employment centers, schools, hospitals, airports), the LIFT operator should pick up and drop off the passenger at the entrance requested by the passenger, rather than meet them in a location that has been predetermined by the transportation agency, again assuming that doing so does not involve a direct threat.

Private Property

LIFT passengers may sometimes seek to be picked up on private property (e.g., in a gated community or parking lot, mobile home community, business or government facility where vehicle access requires authorized passage through a security barrier). Even if the LIFT operator does not generally have a policy of picking up passengers on such private property, the LIFT operator should make every reasonable effort to gain access to such an area (e.g., work with the passenger to get the permission of the property owner to permit access for the LIFT vehicle). The LIFT operator is not required to violate the law or lawful access restrictions to meet the passenger's requests. A public or private entity that unreasonably denies access to a LIFT vehicle may be subject to a complaint to the U.S. Department of Justice or U.S. Department of Housing and Urban Development for discriminating against services for persons with disabilities.

Obstructions

For fixed route services, a passenger's request for a driver to position the vehicle to avoid obstructions to the passenger's ability to enter or leave the vehicle at a *designated stop* location, such as parked cars, snow banks, and construction, should be granted so long as positioning the vehicle to avoid the obstruction does not pose a direct threat. To be granted, such a request should result in the vehicle stopping in reasonably close proximity to the designated stop location. RCT will not *pick up* passengers with disabilities at non-designated locations.

Fare Handling

A passenger's request for transit personnel (e.g., the driver, station attendant) to handle the fare media when the passenger with a disability cannot pay the fare by the generally established means should be granted on fixed route or LIFT service (e.g., in a situation where a

bus passenger cannot reach or insert a fare into the farebox). Transit personnel are not required to reach into pockets or backpacks in order to extract the fare media.

Eating and Drinking

If a passenger with diabetes or another medical condition requests to eat or drink aboard a vehicle or in a transit facility in order to avoid adverse health consequences, the request should be granted, even if RCT has a policy that prohibits eating or drinking. For example, a person with diabetes may need to consume a small amount of orange juice in a closed container or a candy bar in order to maintain blood sugar levels.

Medicine

A passenger's request to take medication while aboard a fixed route or LIFT vehicle or in a transit facility should be granted. For example, individuals may need to administer insulin injections and conduct finger stick blood glucose testing. Transit staff will not provide medical assistance, however, as this would be a fundamental alteration of their function.

Boarding Separately From Wheelchair

A wheelchair user's request to board a fixed route or LIFT vehicle separately from his or her device when the occupied weight of the device exceeds the design load of the vehicle lift should generally be granted.

Dedicated vehicles or special equipment in a vehicle

A LIFT passenger's request for special equipment (e.g., the installation of specific hand rails or a front seat in a vehicle for the passenger to avoid nausea or back pain) can be denied so long as the requested equipment is not required by the Americans with Disabilities Act or the Department's rules. Likewise, a request for a dedicated vehicle (e.g., to avoid residual chemical odors) or a specific type or appearance of vehicle (e.g., a sedan rather than a van, in order to

provide more comfortable service) can be denied. In all of these cases, the Department views meeting the request as involving a fundamental alteration of RCT's service.

Exclusive or Reduced Capacity LIFT Trips

A passenger's request for an exclusive LIFT trip may be denied as a fundamental alteration of the entity's services. LIFT is by nature a shared ride service.

Outside of the Service Area or Operating Hours

A person's request for fixed route or LIFT service may be denied when honoring the request would require the transportation provider to travel outside of its service area or to operate outside of its operating hours. This request would not be a reasonable modification because it would constitute a fundamental alteration of RCT's service.

Personal Care Attendant (PCA)

While PCAs may travel with a passenger with a disability, transportation agencies are not required to provide a personal care attendant or personal care attendant services to meet the needs of passengers with disabilities on LIFT or fixed route trips. For example, a passenger's request for a driver to remain with the passenger who, due to his or her disability, cannot be left alone without an attendant upon reaching his or her destination may be denied. It would be a fundamental alteration of the driver's function to provide PCA services of this kind.

Intermediate Stops

The USDOT views granting a LIFT passenger's request for a driver to make an intermediate stop, where the driver would be required to wait, as optional. RiverCities LIFT does not generally grant intermediate stops. If the schedule allows, they may grant an intermediate stop for a premium fare. Since paratransit is, by its nature, a shared ride system, requests that could disrupt schedules and inconvenience other passengers could rise to the level of a fundamental alteration.

Payment

A passenger's request for a fixed route or LIFT driver to provide the transit service when the passenger with a disability cannot or refuses to pay the fare may be denied. RiverCities Transit requires payment to ride and providing a free service would constitute a fundamental alteration of RCT's service.

Caring for Service Animals

A LIFT or fixed route passenger's request that the driver take charge of a service animal may be denied. Caring for a service animal is the responsibility of the passenger or a PCA.

Opening Building Doors

For LIFT services, a passenger's request for the driver to open an exterior entry door to a building to provide boarding and/or alighting assistance to a passenger with a disability should generally be granted as long as providing this assistance would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. A request for "door-through-door" service (i.e., assisting the passenger past the door to the building) generally would not need to be granted because it could rise to the level of a fundamental alteration.

Exposing Vehicle to Hazards

If the passenger requests that a vehicle follow a path to a pick up or drop off point that would expose the vehicle and its occupants to hazards, such as running off the road, getting stuck, striking overhead objects, or reversing the vehicle down a narrow alley, the request can be denied as creating a direct threat.

Hard-to-Maneuver Stops

A passenger may request that a LIFT vehicle navigate to a pick-up point to which it is difficult to maneuver a vehicle. A passenger's request to be picked up in a location that is

difficult, but not impossible or impracticable, to access should generally be granted as long as picking up the passenger does not expose the vehicle to hazards that pose a direct threat

Specific Drivers

A passenger's request for a specific driver may be denied. Having a specific driver is not necessary to afford the passenger the service provided by RCT.

Luggage and Packages

A passenger's request for a fixed route or LIFT driver to assist with luggage or packages may be denied in those instances where it is not the normal policy or practice of the transportation agency to assist with luggage or packages. Such assistance is a matter for the passenger or PCA, and providing this assistance would be a fundamental alteration of the driver's function.

Request to Avoid Specific Passengers

A LIFT passenger's request not to ride with certain passengers may be denied. Paratransit is a shared-ride service. As a result, one passenger may need to share the vehicle with people that he or she would rather not.

Navigating an Incline, or Around Obstacles

A LIFT passenger's request for a driver to help him or her navigate an incline (e.g., a driveway or sidewalk) with the passenger's wheeled device should generally be granted. Likewise, assistance in traversing a difficult sidewalk (e.g., one where tree roots have made the sidewalk impassible for a wheelchair) should generally be granted, as should assistance around obstacles (e.g., snowdrifts, construction areas) between the vehicle and a door to a passenger's house or destination should generally be granted. These modifications would be granted subject, of course, to the proviso that such assistance would not cause a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

Extreme Weather Assistance

A passenger's request to be assisted from his or her door to a vehicle during extreme weather conditions should generally be granted so long as the driver leaving the vehicle to assist would not pose a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time. For example, in extreme weather (e.g., very windy or stormy conditions), a person who is blind or vision-impaired or a frail elderly person may have difficulty safely moving to and from a building.

Unattended Passengers

Where a passenger's request for assistance means that the driver will need to leave passengers aboard a vehicle unattended, RCT should generally grant the request as long as accommodating the request would not leave the vehicle unattended or out of visual observation for a lengthy period of time, both of which could involve direct threats to the health or safety of the unattended passengers. It is important to keep in mind that, just as a driver is not required to act as a PCA for a passenger making a request for assistance, so a driver is not intended to act as a PCA for other passengers in the vehicle, such that he or she must remain in their physical presence at all times.

Need for Return Trip Assistance

A passenger with a disability may need assistance for a return trip when he or she did not need that assistance on the initial trip. For example, a dialysis patient may have no problem waiting at the curb for a ride to go to the dialysis center, but may well require assistance to the door on his or her return trip because of physical weakness or fatigue. To the extent that this need is predictable, it should be handled in advance, either as part of the eligibility process or the provider's reservations process. If the need arises unexpectedly, then it would need to be handled on an ad hoc basis. The LIFT operator should generally provide such assistance, unless

doing so would create a direct threat, or leave the vehicle unattended or out of visual observation for a lengthy period of time.

Five-Minute Warning or Notification of Arrival Calls

A passenger's request for a telephone call 5 minutes (or another reasonable interval) in advance or at time of vehicle arrival generally should be granted. As a matter of courtesy, such calls are encouraged as a good customer service model and can prevent "no shows." Oftentimes, these calls can be generated through an automated system. In those situations where automated systems are not available and LIFT drivers continue to rely on handheld communication devices (e.g., cellular telephones) drivers should comply with any State or Federal laws related to distracted driving.

Hand-Carrying

Except in emergency situations, a passenger's request for a driver to lift the passenger out of his or her mobility device should generally be denied because of the safety, dignity, and privacy issues implicated by hand-carrying a passenger. Hand-carrying a passenger is also a PCA-type service which is outside the scope of driver duties, and hence a fundamental alteration.

Availability

This document will be made publicly available online at www.rctransit.org and in hard copy at the downtown transit center located at 1135 12th Ave. in Longview.